

# Chapter 7: What Are the Costs and Benefits of the MEPA Process?

## CHAPTER SUMMARY

- < Compliance with the purpose and policy of MEPA results in definite costs and less tangible benefits.
- < Actual or perceived costs and benefits of MEPA compliance were identified by state agencies. They were not quantified.
- < Some of the costs of complying with the purpose and policy of MEPA include the following:
  - < litigation costs
  - < agency costs
  - < agency time
- < Some of the benefits of complying with the purpose and policy of MEPA include the following:
  - < litigation issues
  - < decisionmaking framework
  - < public participation
  - < efficiency
  - < improved decisionmaking
  - < better information
- < Some of these costs and benefits are incurred by other MEPA participants, including permit applicants and citizens, but these other participants were not queried and their costs and benefits were not quantified. The costs and benefits of MEPA to the environment were also not identified or quantified.
- < Controversies over the costs and benefits of any policy or undertaking usually involve the issue of who or what pays the costs and who or what receives the benefits.
- < Agencies that conduct MEPA compliance mostly for agency-initiated actions are more likely to conclude that the costs of MEPA compliance can be quantified in terms of time and money than are permitting agencies that have incorporated the MEPA process into their decisionmaking process.
- < The Subcommittee concluded that it would not be an effective use of time to attempt to retroactively obtain quantifiable information regarding the

costs and benefits of MEPA compliance.

- < The Subcommittee requested agencies to review and comment on some proposed criteria by which the identified costs and benefits might be quantified or narratively described in the future.
- < Agencies agreed on some criteria that could be used to help identify costs and benefits of MEPA compliance in the future.
- < The development of future cost-benefit reporting criteria must be carefully considered.
- < Any MEPA cost-benefit accounting and reporting would be an additional cost of MEPA compliance but may result in some benefits.
- < Some agencies more than others would prefer to measure future MEPA costs and benefits narratively rather than quantifying them.

# **Chapter 7: What Are the Costs and Benefits of the MEPA Process?**

## **Directive and Overview**

The review and analysis of a government policy should include an examination of its costs and its benefits. The question can be summarized by asking if the value of the requirement to someone or something is worth the cost of complying with the requirement. There are two basic difficulties with a cost-benefit review of government policies--the answer depends on who you ask and whether or not the answers can be quantified. The Legislature recognized this difficulty when it directed the EQC, in SJR 18, to conduct a MEPA study that included a review and analysis of:

any identifiable costs and benefits to agencies, permit applicants, citizens, and the human environment resulting from compliance with the policy and purpose of MEPA

The study resolution implies that there are or there may be costs to state agencies, permit applicants, citizens, and the human environment that result from MEPA compliance. It also indicates that there are or there may be benefits to state agencies, permit applicants, citizens, and the human environment that result from MEPA compliance. The EQC study was able to identify some benefits and costs of MEPA through discussions with state agency MEPA practitioners, but the quantification of costs and benefits was an elusive goal.

In response to inquiries regarding the availability of cost-benefit studies of NEPA or mini-NEPAs in other states, the federal CEQ advised that it was unaware of any such report. A recent NEPA effectiveness report (CEQ, 1997) did not directly address the question of costs and benefits either. This issue has been the subject of many surveys and discussions resulting in considerable anecdotal information, but apparently no definitive study of the actual costs or benefits resulting from the implementation of state or federal environmental policy acts has been conducted. The EQC was advised that a detailed analytical study that quantified costs and benefits resulting from the implementation of MEPA would be a pioneering effort (Greczmiel, 1999).

## **EQC Study Effort - Identification of Costs and Benefits**

Experienced MEPA representatives from seven state agencies cooperated with the EQC staff over a period of 3 months in an effort to identify what the costs and benefits of MEPA were and to develop some criteria by which they could be measured or described. Although the conclusions of this group represent MEPA costs and benefits from the agencies' point of view, some of the responses also reflect what the respondents believed to be the costs and benefits of MEPA from the perspective of the environment, the permit

or project applicant, and the public. The MEPA costs and benefits, possible measurable criteria, and agency comments are summarized in tables in the following discussion. The cost-benefit criteria that the agencies generally agreed could be identified and measured or described, with explanation, are **shown in the tables in bold**. Agency comments are necessarily abbreviated for this presentation.

### ***Costs of MEPA Compliance***

**Litigation costs** - One of the identifiable costs of MEPA compliance to agencies, permit or project applicants, and the public is the cost of litigating decisions made or not made by state agencies. Costs can be measured in terms of time and money. Whether an agency is defending a final MEPA decision on a project or defending a decision as to why a project was not subject to a MEPA action, there are certain costs to the agency, to the plaintiff, which is usually a segment of the public, and sometimes to the project applicant, if different from the agency. Whether a litigant wins or loses a MEPA case or whether or not a case is settled prior to argument, there will be some cost of litigation to all the parties. Some cases that involve a cause of action relating to MEPA implementation also involve additional other causes. The converse is also true. Splitting out the costs of litigation solely attributable to compliance with MEPA may be difficult in these cases.

Are the costs of litigation a significant cost of implementing MEPA and would there be litigation costs regarding agency decisionmaking in the absence of MEPA? Although there can be project legal costs to agencies, permit or project applicants, and the public beyond the actual litigation of a MEPA case in court, **Chapter 4** indicates that in the 29-year history of MEPA, a total of 27 MEPA cases have been resolved by state courts and that 9 more cases are currently pending before the courts. All of these cases resulted in litigation costs to the state as the defendant (usually) and to citizen groups or individuals as plaintiffs (usually). Many, but not all, also resulted in legal costs to private parties as permit or project applicants. The 27 cases that were resolved by the courts likely represent a significant share of MEPA litigation costs, but do not include all of the legal costs of implementing MEPA.

The agency work group reviewed criteria that may assist in describing or quantifying the costs of MEPA litigation. These criteria included tracking the number of MEPA cases litigated, quantifying the litigation costs of all parties, identifying the costs of additional MEPA review required as a result of MEPA litigation, and identifying the cost of implementing MEPA incorrectly that results in litigation costs (**Table 7-1**).

All seven of the state agencies in the work group suggested that the litigation costs of MEPA compliance might be quantified by tracking the number of MEPA cases litigated and by tracking all the costs of litigation once a case has been filed. The DEQ advised that the agency is frequently involved in litigation, that several different causes of action are often raised in a case that may also involve a MEPA issue, and that separating the legal costs attributable only to MEPA may be difficult in these cases. The DNRC recommends that all legal costs be included in any accounting. This includes case preparation, witness

fees, court costs, and others. The MEPA litigation costs of private parties would be difficult or impossible to obtain except that a partial accounting can be made in those instances in which a state agency is ordered to pay the costs of the plaintiff.

**Table 7-1. Litigation Cost Issues <sup>1</sup>**

POSSIBLE DESCRIPTIVE CRITERIA	IS THE CRITERION QUANTIFIABLE? (Y) (N)							ONLY NARRATIVE DESCRIPTION IS POSSIBLE/PREFERRED  AND OTHER COMMENTS
	DOC	DEQ	FWP	AGRIC	DNRC Forest Mgmt	DNRC Trust Mgmt	MDT	
(1) Number of MEPA cases "lost" by the agency.	Yc	Y	Y	Y none	Y	Yc	Yc	DOC - Never had a MEPA case. DNRC Trust Land Mgmt - Define "win"; state may win some counts and lose others. MDT- A narrative would be helpful.
(2) Number of times decisions are litigated and defended, regardless of outcome.	Y	Y	Y	Y none	Yc	Y	Y	DNRC Forest Mgmt - Prefer this criterion to (1).
(3) Cost of litigation to state, proponent, opponent.	Y	N	Y	Y none	Yc	Yc	Y	DNRC Forest Mgmt - Include all costs; witness, court costs, etc. DNRC Trust Land Mgmt - OK for agency, not sure for others.
(4) Cost of initial MEPA review and cost of remedial MEPA review(s).	N	N	Yc	N	Yc	Nc	Yc	FWP - Requires establishing accounting entities and tracking costs. DNRC Forest Mgmt - Compare to Idaho. DNRC Trust Land Mgmt - Would require separation of MEPA specific from those that would still occur despite MEPA. MDT- Narrative would be preferred.
(5) Cost of implementing MEPA "incorrectly".	N	N	Nc	N	Nc	N	Yc	FWP and DNRC Forest Mgmt - A cost, but not sure how to quantify. MDT - Narrative explanation required.

<sup>1</sup>CHART CODES Y=Yes; N=No; c=comment; Y?=maybe quantifiable; N?= probably not quantifiable; N/A= not applicable

**Agency Costs** - Another cost attributable to the implementation of MEPA is the cost to agencies of actually implementing the policy. This includes the costs of preparing the environmental review document, conducting project scoping of issues and impacts, gathering information, the publication, printing, and distribution of documents, conducting public involvement processes, document review and analysis, and others. Costs can be measured in terms of time and money.

In testimony before the 1999 Legislature on HB 142, DNRC provided an estimate of agency staff costs and effort that could be specifically tied to MEPA compliance efforts within various agency programs. Although these were rough estimates and it is uncertain how many of these agency costs would remain in the absence of MEPA, it is certain that MEPA compliance does cost agencies (and others) in terms of time and money. This estimate formed the basis for some of the cost-benefit criteria that was developed and reviewed by the agency work group.

Beyond agency costs, permit or project applicants and the public can incur costs associated with MEPA compliance. Costs can include the development of data and information for the preparation of environmental analysis documents, the review of documents, public participation efforts, and more. In the case of permitting, permit or project applicants are generally required to obtain and submit certain information as part of the statutory permitting process. Some statutes and rules require the submittal of a significant amount of information before an agency can begin its review of an application. The cost of providing this information may or may not be directly tied to the cost of MEPA compliance. The MEPA allows for the assessment of a fee against a permit or project applicant if the agency determines that an EIS will be necessary and that the agency costs to compile an EIS will exceed \$2,500. **Chapter 3** shows that a vast majority of MEPA effort involves the production of EA documents and that since 1985, a total of 60 projects have resulted in the production of an EIS. Approximately one-half of these EIS projects involved a permit or project applicant, while the other half were state-initiated actions.

The agency cost-benefit work group reviewed the following criteria that might be used to describe or quantify agency costs in terms of money or time (**Tables 7-2 and 7-3**).

Costs:

- X Determine agency staff and other budget costs attributable to MEPA compliance.
- X Identify agency cost savings were MEPA repealed.
- X Separate agency costs attributable solely to MEPA from those that would remain in carrying out permitting responsibilities or project decisionmaking.
- X Identify recoverable and nonrecoverable MEPA costs.
- X Determine numbers and costs of contracts for MEPA assessments.

Time:

- X Identify the number of times that a project proponent has litigated or threatened to litigate because of project delays due to MEPA.

- X Identify categories of projects that are delayed due to MEPA analysis and describe frequency of delay.
- X Estimate time savings in decisionmaking by project type if MEPA analysis were not required.
- X Track range of time (and frequency of occurrence) that it takes to conduct a project review in compliance with MEPA and an estimate of the same without MEPA by project type.
- X Estimate FTE that could be made available for other agency projects if MEPA analysis were not required.

**Table 7-2. Agency Costs**

POSSIBLE DESCRIPTIVE CRITERIA	IS THE CRITERION QUANTIFIABLE? (Y) (N)							ONLY NARRATIVE DESCRIPTION IS POSSIBLE/PREFERRED
	DOC	DEQ	FWP	AGRIC	DNRC Forest Mgmt	DNRC Trust Mgmt	MDT	AND OTHER COMMENTS
<b>(1) Develop DNRC style FTE calculations attributable only to implementing MEPA.</b>	Nc	Yc	Y?c	Yc	Yc	Yc	Y	DOC - grant applicants pay most costs. DEQ - Possibly. FWP - Prefer narrative explanation. Unknown how to separate costs of MEPA analysis from costs of permit/project analysis. Agriculture - Effort to gather data not cost-effective. DNRC Forest Mgmt - Could include all other costs like printing, legal, advertising, etc. DNRC Trust Land Mgmt - Accounting is subjective as to whether everything is attributable to MEPA or would still be done in the review process anyway.
(2) If MEPA were repealed, identify those agency costs that would be saved (FTE and \$).	Nc	N	Y?c	Y difficult	Yc	Y?c	Nc	DOC - Likely no change. FWP - See above. AGRIC - Multiple FTE provide some resources to MEPA reviews. DNRC Forest Mgmt - Include costs in addition to FTE like printing, etc. - See (1). DNRC Trust Land Mgmt - See (1). MDT - Narrative explanation preferred.

POSSIBLE DESCRIPTIVE CRITERIA	IS THE CRITERION QUANTIFIABLE? (Y) (N)							ONLY NARRATIVE DESCRIPTION IS POSSIBLE/PREFERRED
	DOC	DEQ	FWP	AGRIC	DNRC Forest Mgmt	DNRC Trust Mgmt	MDT	AND OTHER COMMENTS
(3) Identification of specific MEPA activities separate from permitting activities and identification of costs attributable to those MEPA activities; e.g., document preparation, document review, information gathering, public involvement, litigation.	N	N	Yc diffi- cult	N	Yc	Y?c	N?c	FWP - Prefer narrative explanation. DNRC Forest Mgmt - Can quantify printing, FTE, legal, advertising, but would estimate costs of data gathering, public involvement, document review. DNRC Trust Land Mgmt - See (1). MDT - Maybe. Narrative explanation preferred.
(4) Identification and accounting of recoverable and nonrecoverable MEPA costs. Accounting or percentage estimate.	N	N	Y	Y difficult	N/A	N	Yc	MDT - Maybe. Narrative would be helpful.
<b>(5) Contracts for environmental assessments; number and costs, both recoverable and nonreimbursable.</b>	<b>N/A</b>	<b>Yc</b>	<b>Y</b>	<b>Y</b>	<b>Yc</b>	<b>Y</b>	<b>Y</b>	<b>DEQ - Possibly, but not for nonreimbursable costs. DNRC Forest Mgmt - Only those portions of MEPA that are contracted out. MDT - None.</b>

The agencies were asked which of these criteria could be quantified and which could be only narratively described. The agencies all agreed that it would be possible to quantify the costs of private contracts used by the agencies to gather information necessary for the production of MEPA documents, but this would not include nonreimbursable costs such as contract procurement and management and document review and comment. Agencies also believed that it might be possible to quantify costs or estimates of FTE allocated to MEPA implementation, but some concluded that it would be difficult to separate MEPA-only costs from other permit or project review costs. Most agreed that it would be difficult to identify what savings in time, money, or staffing could be made if MEPA project analysis were not required.

There appears to be a split between the agencies in their enthusiasm and ability to quantify the costs of MEPA compliance. Those agencies that conduct MEPA on agency-initiated actions, such as the DNRC forest management program and, to a lesser extent, the MDT highway program, tend to be able to separate and quantify costs attributable to MEPA. However, in those agencies that conduct MEPA review on actions that involve decisions on permitting, such as DEQ, FWP, and the DNRC Trust Land Management Division, the separation of agency permit review costs and MEPA costs seems to be



more difficult. The two efforts are often integrated as MEPA becomes part of the permitting decision and not a separate and distinct function.

The agencies all agreed that they could describe the categories of projects that are delayed to one extent or another as a result of the MEPA process. That information is presented in greater detail in **Chapter 8**. Most of the agencies agreed that it might be possible to estimate the time that could be saved in project decisionmaking if MEPA compliance were not required, but that an accurate quantification might be difficult.

**Table 7-3. Agency Time Costs**

POSSIBLE DESCRIPTIVE CRITERIA	IS THE CRITERION QUANTIFIABLE? (Y) (N)							ONLY NARRATIVE DESCRIPTION IS POSSIBLE/PREFERRED  AND OTHER COMMENTS
	DOC	DEQ	FWP	AGRIC	DNRC Forest Mgmt	DNRC Trust Mgmt	MDT	
(1) Number of times a project proponent has litigated or threatened to litigate because of project delays due to MEPA analysis.	N/A	N	Y	Y	N/A	Yc	Y	DNRC Trust Land Mgmt -Mostly N/A. Agency is usually the project proponent.
(2) Categories of projects that are always, sometimes, or rarely delayed due to MEPA analysis.	N/A	Y	Y	Y	Yc	Yc	Y	DNRC Forest Mgmt - See information already provided to Subcommittee. DNRC Trust Land Mgmt - Currently. May change in future.
(3) Estimate of time savings in making decisions by project type if MEPA analysis were not required.	Yc	Y	?c	Y	Yc	?c	Yc	DOC - Negligible, most are NEPA anyway. FWP - Maybe. Prefer narrative explanation. DNRC Forestry - Would be an estimate with a range of variation. See Table 7-2(3). DNRC Trust Land Mgmt - Highly subjective. Prefer narrative explanation. MDT - Maybe. Narrative would be helpful.
(4) Range of time and frequency of occurrence that it takes to conduct a project review with MEPA analysis and estimate of same without MEPA by project type.	N/A	N	?c	Y	?c	?c	Y	FWP - Would require accounting entity if accuracy were of concern. Prefer narrative explanation. DNRC Forest Mgmt - Maybe. Time delays are related to litigation. DNRC Trust Land Mgmt - Would be difficult to separate time with and without MEPA.

POSSIBLE DESCRIPTIVE CRITERIA	IS THE CRITERION QUANTIFIABLE? (Y) (N)							ONLY NARRATIVE DESCRIPTION IS POSSIBLE/PREFERRED  AND OTHER COMMENTS
	DOC	DEQ	FWP	AGRIC	DNRC Forest Mgmt	DNRC Trust Mgmt	MDT	
(5) Estimates of FTE that could be made available for other agency projects if MEPA analysis was not required.	N	N	?c	N/A	Yc	?c	Yc	FWP - Diffuse hours of work spread across multiple agency FTEs. Prefer narrative explanation. DNRC Forest Mgmt - Not applicable. Harvest limit restricts number of FTE. DNRC Trust Land Mgmt - Would be difficult to identify the lesser level of review with and without MEPA. MDT - Maybe. Narrative would be helpful.

### ***Benefits of MEPA Compliance***

**Litigation Issues** - If it is assumed that MEPA litigation occurs over issues that involve the real or perceived impacts of a project on the environment, then litigation may be viewed as a potential benefit to the environment. MEPA provides an opportunity or standing for others to challenge a governmental decision if they believe that a proper environmental analysis has not been conducted. In cases won by agencies, the court generally rules that a proper analysis of the environmental impacts of a proposal has occurred and that the decisionmaker was adequately informed of the impacts. In others, an agency may be directed to conduct an environmental analysis or to conduct a more adequate environmental analysis of the impacts of a proposal. Perceivably, any benefits that result from MEPA litigation accrue to the environment in terms of an adequate and proper MEPA analysis having been conducted or in terms of an additional review being required by the courts. Quantification of these benefits is very difficult, although they may possibly be described.

Two criteria were proposed to measure this benefit--identify the number of MEPA cases "won" by an agency and describe the projects that, following litigation, are modified or conditioned or in which impacts were mitigated. Agencies agreed that they could track MEPA cases won, but DNRC commented that litigation is not a benefit at all, as it costs all parties time and money, and that the worthiness of a project cannot be determined by an agency's success in court. With the exception of DNRC, the agencies agreed that it would be possible to identify projects that were altered as a result of litigation (**Table 7-4**).

**Decisionmaking Framework** - Another MEPA benefit identified by the work group was that the policy and its rules provide government with a framework for making decisions that could have impacts on the environment. The policy of MEPA requires agencies to take an interdisciplinary approach to decisionmaking and to consider a broad range of influences that their decisionmaking could have on the human environment. The framework anticipates, allows, and at times requires the participation of others, including the public, in

the government's decisionmaking process.

**Table 7-4. Litigation Benefit Issues**

POSSIBLE DESCRIPTIVE CRITERIA	IS THE CRITERION QUANTIFIABLE? (Y)(N)							ONLY NARRATIVE DESCRIPTION IS POSSIBLE/PREFERRED  AND OTHER COMMENTS
	DOC	DEQ	FWP	AGRIC	DNRC Forest Mgmt	DNRC Trust Mgmt	MDT	
(1) Number of MEPA cases "won" by the agency.	Yc	Y	Y	Y	Yc	Yc	Y	DOC - in theory; no cases. DNRC Forest Mgmt - Project worthiness is not measured by success of agency in court. DNRC Trust Land Mgmt - Litigation is not a benefit. It costs each party time and money; win or lose. See comment in Table 7-1(1) for definition on split rulings.
(2) Description of projects that, following litigation, are modified or conditioned or in which impacts were mitigated.	N/A	Yc	Y	N/A	Nc	N	Y	DEQ - Possibly? DNRC Forest Mgmt - See above comment.

The number of "yes" decisions that were mitigated or conditioned as the result of an agency MEPA analysis was the criterion proposed for describing this MEPA benefit. The agencies were split on whether or not this could be done, with DNRC commenting that mitigating or conditioning an action was determined by statutory standards and resource standards and not by MEPA since DNRC considers MEPA as a procedural and not a substantive policy (**Table 7-5**).

**Table 7-5. Decisionmaking Framework Benefit**

POSSIBLE DESCRIPTIVE CRITERIA	IS THE CRITERION QUANTIFIABLE? (Y) (N)							ONLY NARRATIVE DESCRIPTION IS POSSIBLE/PREFERRED  AND OTHER COMMENTS
	DOC	DEQ	FWP	AGRIC	DNRC Forest Mgmt	DNRC Trust Mgmt	MDT	
(1) Number of approval decisions that were mitigated or conditioned as a result of MEPA analysis.	N/A	Yc	Y	N/A	Nc	Nc	Y	DEQ - Possibly? DNRC Forest Mgmt - Narrative discussion would be required. DNRC Trust Land Mgmt - MEPA is procedural - not substantive. Mitigation or conditional decisions are based on resources and standards - not MEPA-based. It is impossible to speculate on what mitigation would or would not apply.

**Public Participation** - The MEPA rules include a public participation process for the review of project environmental assessments. Other statutes administered by state agencies may also require public participation. In these cases, the public participation processes were described as complementary and not as separate and conflicting. Public participation was identified by the agency work group as a benefit of MEPA. However, the benefits of public participation resulting from compliance with MEPA were determined by the work group to be difficult to quantify or measure in terms of time or money. There are costs, sometimes very significant costs, to an agency, to an applicant, and to the public of conducting a public participation process. With difficulty, some of these costs may be quantified in terms of time and money, but accounting for the benefits, which may accrue to some or all of the MEPA participants, could be even more difficult.

Possible criteria for measuring or describing this MEPA benefit include identifying those permitting statutes that had public participation requirements and those that did not (except for MEPA), identifying the frequency with which MEPA requirements resulted in a formal public participation process, describing the percentage of times that the MEPA process resulted in substantive public comments on a proposal, and categorizing projects by the frequency with which public comments are solicited and received and describing the benefit of those public responses to the proposal (**Table 7-6**).

If public participation is one of the benefits of compliance with MEPA, the purpose of the criteria was to attempt to identify how beneficial public participation actually was to the process. The agencies generally agreed that it would be possible to identify other statutes that included public participation requirements and that it could be possible to list how often MEPA resulted in a formal public participation process. Beyond that, the proposed criteria were determined to be too subjective and not specific enough to be of any value. If some standard is to be developed by which agencies can measure or definitively explain the value of public participation in their MEPA decisionmaking, the criteria must be more clearly defined. The MEPA public participation process is more fully described in **Chapter 9**.

**Table 7-6. Public Participation Benefit**

POSSIBLE DESCRIPTIVE CRITERIA	IS THE CRITERION QUANTIFIABLE? (Y)(N)							ONLY NARRATIVE DESCRIPTION IS POSSIBLE/PREFERRED  AND OTHER COMMENTS
	DOC	DEQ	FWP	AGRIC	DNRC Forest Mgmt	DNRC Trust Mgmt	MDT	
<b>(1) Identify permitting statutes with public participation requirements.</b>	Y	Y	Yc	Y	Y	Y	Y	<b>FWP - Not many.</b>

POSSIBLE DESCRIPTIVE CRITERIA	IS THE CRITERION QUANTIFIABLE? (Y)(N)							ONLY NARRATIVE DESCRIPTION IS POSSIBLE/PREFERRED AND OTHER COMMENTS
	DOC	DEQ	FWP	AGRIC	DNRC Forest Mgmt	DNRC Trust Mgmt	MDT	
(2) Identify permitting statutes without public participation requirements except for MEPA requirements.	N/A	Y	Yc	Yc	N/A	Y	Y	FWP - Most. AGRIC - None.
(3) List frequency of public participation activities due only to MEPA or how often does MEPA trigger a formal public participation process?	N/A	Yc	Y	Y	Y	Y	Y	DEQ - Possibly, question needs to be more focused.
(4) What percentage of the time does MEPA result in substantive public comments?	Yc	Yc	Y?c	Nc	Yc	Yc	Y	DOC - in reality, seldom. Most comments on grant project are prior to application to the agency. DEQ - Revise criterion. The agency can identify the number of projects in which written public comments are received. FWP - Probably. Depends on definitions of this criterion. AGRIC - Unknown. DNRC Forest Mgmt - Subjective criterion. Agency and commenter may disagree on what is a substantive comment. DNRC Trust Land Mgmt - Need to define "substantive public comment".
(5) Categorize projects by frequency of solicitation of public comments and frequency and quality/quantity of public response to proposals.	-	Yc	Y	N/A	Y ? and Nc	Y?c	N?c	DEQ - Refer to the agency website. DNRC Forest Mgmt - May be able to categorize by frequency of solicitation but determination of quality and quantity of responses is too subjective and would be better explained narratively. DNRC Trust Land Mgmt - Maybe, but would be subjective - needs definition. MDT - Maybe but a narrative would be preferred.

**Efficiency** - The agency work group identified government efficiency as another benefit of the MEPA process. The discussion centered around the concept that MEPA required a systematic approach to environmental decisionmaking that included a review of a wide range of potential impacts or relationships involving the human environment. This was

believed to result in the opportunity for intra-agency and interagency input and cooperation in some cases. Also, when some earlier permitting processes had been narrowly focused and MEPA was not implemented, situations were described in which the Legislature had altered the permitting process to specifically require a level of review analogous or duplicative to that required by MEPA.

Criteria for quantifying or describing the efficiency of MEPA included a listing of those statutes that were enacted following MEPA and that duplicate or go beyond MEPA analysis requirements, a description of situations in which MEPA facilitates the coordinated review of permits or actions within and between agencies, and an identification of those formal or informal agreements established between agencies that help facilitate projects (**Table 7-7**). Agencies agreed that it would be possible to identify statutes that duplicate or go beyond MEPA analysis requirements. The DNRC Trust Land Management Division did not believe that it would be possible to describe or identify any coordinated permit reviews or cooperative efforts or agreements that were precipitated by MEPA although it is party to several agreements. This criterion requires additional clarification and description if it is to be effective. After identifying agency efficiency as a MEPA benefit, some agencies appeared to have difficulty with the concept or in identifying anything specific.

**Table 7-7. Efficiency Benefit**

POSSIBLE DESCRIPTIVE CRITERIA	IS THE CRITERION QUANTIFIABLE? (Y ) (N)							ONLY NARRATIVE DESCRIPTION POSSIBLE/PREFERRED AND OTHER COMMENTS
	DOC	DEQ	FWP	AGRIC	DNRC Forest Mgmt	DNRC Trust Mgmt	MDT	
(1) List statutes that have been enacted following MEPA (1971) that duplicate or go beyond MEPA analysis requirements.	Y	Y	Y	Yc	N/A	Yc	Y	AGRIC - None. DNRC Trust Land Mgmt - MEPA does not have analysis requirements - it's procedural and only includes process requirements.
(2) Describe or list situations in which MEPA facilitates the coordinated review of multiple permits within agencies or where permit reviews are coordinated between agencies.	Y	Yc	Y	Yc	N	c	Y	DEQ - This is currently attempted with all EPA reviews. AGRIC - None. DNRC Trust Land Mgmt - Narrative only. Coordination occurs with or without MEPA.
(3) List or identify formally or informally established agency cooperative efforts.	Y	Yc	Y	Yc	N	c	Y	DEQ - Need clarification. Does this refer to cooperative efforts at an agency level or at a project level? AGRIC - None. DNRC Land Trust Mgmt - Many agreements (MOUs, MOAs) but not necessarily MEPA-driven.

**Improved Decisionmaking** - This is one of the commonly accepted justifications for MEPA, and it was identified as one of MEPA's benefits by the agency work group. If the purpose of MEPA is to "look before you leap" in order to analyze the potential environmental impacts of a proposed state action and to include others in the decisionmaking process, it would seem that improved decisionmaking would be the result of that effort. Although it was identified as a benefit, methods by which to measure or describe the benefits of improved decisionmaking were lacking (**Table 7-8**).

**Table 7-8. Improved Decisionmaking Benefit**

POSSIBLE DESCRIPTIVE CRITERIA	IS THIS CRITERION QUANTIFIABLE? (Y) (N)							ONLY NARRATIVE DESCRIPTION IS POSSIBLE/PREFERRED AND OTHER COMMENTS
	DOC	DEQ	FWP	AGRIC	DNRC Forest Mgmt	DNRC Trust Mgmt	MDT	
(1) Number or frequency (percentage) of projects altered/improved as a result of the MEPA process.	N/A	N	Y?c diffi- cult	N/A	Nc	c	Yc	FWP - Would require reviewing every project. Prefer narrative. DNRC Forest Mgmt - Projects are designed to comply with substantive laws. MEPA doesn't require any mitigation, only that actions be considered and disclosed to the public. DNRC Trust Land Mgmt - Criteria (1) - (4) are highly subjective and would be best addressed narratively. Some projects are altered/improved/dropped due to MEPA but more are changed due to other factors. MDT - Narrative would be necessary.
(2) Environmental impacts most frequently avoided or mitigated as a result of the MEPA process generally or by project category.	N/A	Yc	Y	N/A	Yc	see (1)	Y	DEQ - Possibly, but more clarification is needed. DNRC Forest Mgmt - See (1). Most or all mitigations would be done without MEPA due to compliance with substantive environmental laws.
<b>(3) Number or frequency (percentage) of project applications not pursued following MEPA analysis.</b>	<b>N/A</b>	<b>Yc</b>	<b>Yc</b>	<b>N/A</b>	<b>Yc</b>	<b>see (1)</b>	<b>N/A</b>	<b>DEQ - Cannot recall any examples. FWP - Small number. DNRC Forest Mgmt - A minimal number. Distinguish between projects terminated by agency and by courts.</b>
(4) Number or frequency (percentage) of project applications amended following MEPA analysis.	N/A	Nc	Yc diffi- cult	N/A	Yc	see (1)	N/A	DEQ - Agency tries to include all applicable permits in the MEPA analysis.. FWP - See (1). DNRC Forest Mgmt - Quantify supplemental EAs, EISs.

Some of the criteria that might be useful in measuring or describing this benefit included the number of or frequency with which projects were altered or improved as a result of the MEPA process. Most agencies believed that this criterion would not be usable and, if so, a narrative description would be preferred over a quantitative description (FWP and MDT). Another criterion might be a description or quantification of those environmental impacts most frequently avoided or mitigated as the result of a MEPA analysis. Agencies believed that this might be a usable criterion with more clarification (DEQ) or that mitigations or alterations occur in spite of MEPA analysis as MEPA is not substantive (DNRC). All agencies thought that it would be possible to identify the number of or frequency of projects that were dropped or not pursued as a result of a MEPA analysis. Most agencies believed that the number would be small. Most agencies rejected a criterion that would describe the number of or frequency of project applications that were amended following a MEPA analysis as a method of measuring whether or not MEPA resulted in improved decisionmaking. The DNRC forest management program suggested quantifying the number of supplemental environmental reviews that were prepared while stating that the MEPA process has little to do with the determination that a supplement was necessary. Comments from the DNRC divisions on the subject of improved decisionmaking through MEPA consistently maintained that project changes, alterations, modifications, or mitigations were not primarily the result of any MEPA analysis but were due to other factors or standards.

**Better Information** - The quest for and gathering of additional or better information about a project and its impacts was identified as a MEPA benefit. As directed in MEPA, agencies are to utilize a systematic, interdisciplinary approach to decisionmaking and consult with others having jurisdiction or expertise with respect to environmental impacts relating to an action under review.

Two criteria were proposed to the agency cost-benefit work group for consideration regarding how to measure MEPA's ability to provide agencies with better information (**Table 7-9**). No agency agreed that it would be possible to identify or quantify the



**Table 7-9. Better Information Benefit**

POSSIBLE DESCRIPTIVE CRITERIA	IS THIS CRITERION QUANTIFIABLE? (Y) (N)							ONLY NARRATIVE DESCRIPTION IS POSSIBLE/PREFERRED AND OTHER COMMENTS
	DOC	DEQ	FWP	AGRIC	DNRC Forest Mgmt	DNRC Trust Mgmt	MDT	
(1) Frequency of times a project is modified/improved due to information provided by sources outside the agency as a result of the MEPA process.	N	N	Yc Difficult	N	Nc	c	Yc	FWP - Would require reviewing each project. DNRC Forest Mgmt - Modified may not equal improved. Every action is modified to some degree between start to finish. DNRC Trust Land Mgmt - Criteria (1) and (2) are highly subjective - it is difficult to separate information gained through the MEPA process from that gained through the normal agency review process. MDT - Narrative needed.
(2) Categorize the projects that most frequently benefit from information provided as a result of the MEPA process.	Y	Y	Y	Yc	N/Ac	c above	Y	<b>AGRIC - Noxious weed projects.</b> <b>DNRC Forest Mgmt - All projects are the same. Hard to tell if one timber sale benefits over another due to MEPA.</b>

frequency of times that a project is modified or improved because of information provided to the agency from sources outside the agency as a result of the MEPA process. One problem seems to be that if projects were altered, some agencies may not agree that they were improved. Also, agencies apparently aren't able to determine where the impetus for altering a project comes from--inside the agency, other agencies, the applicant, or the public.

However, all agencies agreed that it would be possible to categorize the projects that most frequently benefit from information provided as a result of the MEPA process. DNRC generally had reservations as to whether or not the MEPA process resulted in providing better information to the agency and whether this should be listed as a benefit of MEPA. The agency maintains that it has "normal agency review processes" in its statutes, rules, or policies that provide it with the ability to conduct project assessments and that to separate information gained through those processes from that obtained through the MEPA process is difficult at best.

## Prospective Efforts

After reviewing the information developed by the agency cost-benefit work group, the Subcommittee concluded that it would not be possible to conduct a thorough quantitative review and analysis of identifiable costs and benefits to all participants that result from compliance with the policy and purpose of MEPA. The question of costs and benefits has only been asked of state agencies familiar with implementing MEPA. The identification of

MEPA costs and MEPA benefits to others, such as permit or project applicants, the public, and the environment, has not been addressed, although some of the agency cost-benefit categories and criteria are applicable to these other MEPA participants.

Another difficulty in conducting a thorough analysis of MEPA costs and benefits is that obtaining quantifiable data would be very difficult and time-consuming. The agencies' general responses to the criteria are indicative of this problem. So how can the question of MEPA's effectiveness in terms of its costs and benefits be answered now and in the future? The Subcommittee has identified some MEPA costs and some MEPA benefits through the assistance of the agency work group. It has discussed the possible development of measurable criteria or tracking standards so that the costs and benefits of MEPA compliance might be gauged in the future through a reporting requirement.

The Subcommittee requested and received responses from the agencies about what they thought might be quantifiable criteria for future use. The agencies have provided some answers to the questions and offered their preliminary comments (**Tables 7-1 through 7-9**). The DNRC Trust Land Management Division advised the Subcommittee that all of the proposed reporting criteria evaluated by the agency work group would make the MEPA process more burdensome and urged that any new reporting requirement be simple. The agency referenced the current requirement that EAs and EISs prepared in compliance with MEPA be submitted to the EQC and asked whether that procedure was used or useful in determining the efficiency or effectiveness of MEPA. The documents are presently entered into a central database for tracking (see **Chapter 3**) but are not routinely reviewed or analyzed by staff or the EQC.

Regarding the DNRC suggestions and the comments of several of the other state agencies, it will be important to carefully consider what additional information, if any, may be required in the future in order to measure the costs and benefits resulting from compliance with MEPA. A useful reporting criterion should include the following characteristics:

- T      should be inexpensive and easy to identify and track;
- T      should be clearly defined and comparable between projects and agencies;
- T      must be useful and describe or quantify a MEPA cost or a MEPA benefit;
- T      must clearly identify the recipients of the costs and benefits; and
- T      must be supported by MEPA practitioners and participants.